

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 28TH JULY 2006 / 6TH SRAVANA 1928

Bail Appl..No. 4533 of 2006

CP.83/2005 of JUDL. MAGISTRATE OF FIRST CLASS, KOTHAMANGALAM

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PETITIONER/3RD ACCUSED

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P.E.VARKEY, AGED 61 YEARS,  
S/O. ETHAPPIRY, PERUMPILLY VEEDU,  
PINDIMANA VILLAGE, CHENGARA KARA,  
KOTHAMANGALAM TALUK.

BY ADV. SRI.SIRAJ KAROLY

RESPONDENTS: COMPLAINANT

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THE STATE OF KERALA, REP. BY  
PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTORK. HARILAL

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 28/07/2006, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**J.M.JAMES, J.**

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**B.A. 4533/2006**  
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**DATED THIS THE 28TH DAY OF JULY, 2006**

**O R D E R**

The petitioner is the third accused, in C.P.No.83/2005 on the file of the Judicial Magistrate of First Class, Kothamangalam. He was absconding and therefore, a non bailable warrant is issued against him. Hence this application, under Section 438 Cr.P.C.

2. After hearing both sides, I direct the petitioner to appear before the Judicial Magistrate of First Class, Kothamangalam, on 3.8.2006 at 11.00 a.m., and move an application for bail, after serving copy of the same to the APP of that Court. In such situation, the learned Magistrate shall hear both sides and dispose of the application on the same day itself, on merit, also considering the contention of the petitioner that he had been arrayed as accused in the case, due to a mistake in identity of the person.

3. I make it clear that at the time of disposal of

the matter, the learned Magistrate may consider the documents, if any, filed by the petitioner, on the contention of the identity of the petitioner, and his involvement, with the crime.

The application is disposed of as above.

**J.M.JAMES  
JUDGE**

mrCS